

Regular Session, 2009

SENATE BILL NO. 191

BY SENATOR ALARIO

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HEALTH/HOSPITALS DEPT. Provides authority for the Department of Health and Hospitals to conduct certain mortality reviews. (gov sig)

AN ACT

To amend and reenact R.S. 44:4.1(B)(24) and to enact R.S. 40:2020, relative to the authority of the Department of Health and Hospitals to conduct certain mortality reviews; to provide for legislative intent; to provide for definitions and duties; to provide for records; to provide for confidentiality; to provide for a public records exception; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 44:4.1(B)(24) is hereby amended and reenacted to read as follows:

§4.1. Exceptions

\* \* \*

B. The legislature further recognizes that there exist exceptions, exemptions, and limitations to the laws pertaining to public records throughout the revised statutes and codes of this state. Therefore, the following exceptions, exemptions, and limitations are hereby continued in effect by incorporation into this Chapter by citation:

\* \* \*

(24) R.S. 40:3.1, 31.14, 31.27, 39.1, 41, 73, 526, 528, 1007, 1098.8, 1232.7,

1299.6, 1299.35.10, 1299.44, 1299.85, 1299.87, 1300.14, 1300.54, 1379.3, 2009.8,  
2009.14, 2010.5, 2017.9, 2018, 2019, 2020, 2106, 2109.1, 2138, 2532.

\* \* \*

Section 2. R.S. 40:2020 is hereby enacted to read as follows:

**§2020. Review of deaths of persons served by the Department of Health and  
Hospitals**

**A. The legislature finds that:**

**(1) In accordance with best practices and national trends, it is  
recommended that the office for citizens with developmental disabilities and the  
office of aging and adult services monitor and review deaths of persons  
receiving services through the offices.**

**(2) Collection of data on the causes and circumstances of death of these  
persons will enable the offices to initiate quality improvement and provider  
remediation in long term care services in order to reduce or improve mortality  
rates.**

**(3) A complete review of the information obtained by the office for  
citizens with developmental disabilities and the office of aging and adult services  
will enable the offices to identify patterns and systemic problems to support  
corrective actions and quality improvements in service delivery.**

**B. For the purposes of this Section, the following terms shall have the  
following meanings:**

**(1) "Department" means the Department of Health and Hospitals.**

**(2) "Health care provider" means a health care provider as defined in  
R.S. 13:3734(A)(1).**

**(3) "Office" means the office for citizens with developmental disabilities  
or the office of aging and adult services within the Department of Health and  
Hospitals.**

**C. The duties of the office for citizens with developmental disabilities  
and the office of aging and adult services shall be the following:**

1           (1) In each death reviewed, the offices shall obtain data and records  
2           relevant to the causes and circumstances of death from providers, including  
3           health care providers, as well as from other sources.

4           (2) The offices shall identify patterns and systemic problems to  
5           determine what changes, if any, should be made in service delivery.

6           (3) The offices shall each prepare an annual report for public  
7           distribution. The report shall set forth aggregate information including the  
8           number of deaths reviewed, identify all provider remediation and quality  
9           improvements initiated or recommended as a result of the review, and set forth  
10          any other information as may be determined by the offices. However, the  
11          report shall not disclose names of the deceased or any entities involved or any  
12          information which would identify a particular person or entity.

13          D. (1) Notwithstanding any other provision of law to the contrary, the  
14          Department of Health and Hospitals, office for citizens with developmental  
15          disabilities and office of aging and adult services, shall be authorized to access  
16          death certificates in the custody of the department, autopsy reports, and records  
17          of all service providers, including medical records in the custody of health care  
18          providers, of persons being served through the offices at the time of death.

19          (2) Notwithstanding any other provision of the law to the contrary, all  
20          records obtained by the offices in accordance with the provisions of this Section,  
21          as well as any work product, chart, or any other document prepared by the  
22          offices in death reviews, except for the annual reports required by Paragraph  
23          C(3) of this Section, shall be confidential, shall not be public record, and shall  
24          not be available for subpoena. Nor shall such information be disclosed,  
25          discoverable, or compelled to be produced in any civil, criminal, administrative,  
26          or other proceeding or admissible as evidence in any civil, criminal,  
27          administrative, or other tribunal or court for any reason.

28          (3) No person or entity who furnishes information to the offices pursuant  
29          to this Section shall be liable or in violation of a duty of confidentiality, provided

1        **the person or entity has acted in good faith.**

2        Section 2. This Act shall become effective upon signature by the governor or, if not  
3        signed by the governor, upon expiration of the time for bills to become law without signature  
4        by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
5        vetoed by the governor and subsequently approved by the legislature, this Act shall become  
6        effective on the day following such approval.

---

The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Greg Waddell.

---

#### DIGEST

Proposed law provides for the following duties of the DHH office for citizens with developmental disabilities and office of aging and adult services:

- (1) In each death reviewed, the offices shall obtain data and records relevant to the causes and circumstances of death from providers, including health care providers, as well as from other sources.
- (2) The offices shall identify patterns and systemic problems to determine what changes, if any, should be made in service delivery.
- (3) The offices shall each prepare an annual report for public distribution. The report shall set forth aggregate information including the number of deaths reviewed, identify all provider remediation and quality improvements initiated or recommended as a result of the review, and set forth any other information as may be determined by the offices. However, the report shall not disclose names of the deceased or any entities involved or any information which would identify a particular person or entity.

Proposed law provides that the office for citizens with developmental disabilities and the office of aging and adult services, are authorized to access death certificates in the custody of the department, autopsy reports, and records of all service providers, including medical records in the custody of health care providers, of persons being served through the offices at the time of death.

Proposed law further provides that all records obtained by the offices in accordance with the provisions of proposed law, as well as any work product, chart, or any other document prepared by the offices in death reviews, except for the annual reports required by proposed law, shall be confidential, shall not be public record, and shall not be available for subpoena. Nor shall such information be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding or admissible as evidence in any civil, criminal, administrative, or other tribunal or court for any reason.

Proposed law provides that no person or entity who furnishes information to the offices pursuant to proposed law may be found liable or in violation of a duty of confidentiality, provided the person or entity has acted in good faith.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 44:4.1(B)(24); adds R.S. 40:2020)